



## 1995 ASSEMBLY BILL 1043

March 18, 1996 - Introduced by Representatives OTT, SCHNEIDERS, MEYER, JOHNSRUD, WILDER, AINSWORTH, FREESE, GUNDERSON, VRAKAS, BOYLE, OLSEN, OURADA, HAHN and BRANDEMUEHL, cosponsored by Senators BUETTNER, RUDE and SCHULTZ. Referred to Committee on Urban and Local Affairs.

1     **AN ACT to repeal** 58.07, 174.046, 951.15 (2) to (4) and 951.162 (title); **to**  
2     **renumber** 173.01, 173.02, 173.03, 173.04, 173.05, 173.06 and 173.07 and  
3     951.15 (1); **to renumber and amend** 951.16, 951.162, 951.165 (title), (1), (2)  
4     and (3) and 951.17; **to amend** 20.115 (2) (j), 60.24 (3) (xm), 93.07 (11), chapter  
5     172 (title), 174.01 (2), 174.13 (3), 895.57 (1) (a), 943.75 (1) (a), 951.01 (4), 951.03,  
6     951.18 (1) and (4) (a) 2. and (b) and 968.20 (1) (intro.) and (2); **to repeal and**  
7     **recreate** chapter 173 (title) and 951.15 (title); and **to create** 95.21 (1) (a),  
8     170.065, subchapter I (title) of chapter 172 [precedes 172.01], 172.012,  
9     subchapter II (title) of chapter 172 [precedes 172.51], chapter 173, 757.69 (1)  
10    (n) and 951.01 (3e) of the statutes; **relating to:** humane officers, the custody  
11    and disposition of animals, making an appropriation and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill makes numerous changes in the laws relating to humane officers, taking animals into custody and the disposition of animals taken into custody.

Current law authorizes a city, village, town or county (political subdivision) to appoint humane officers. The law requires the governing body of a political subdivision that appoints a humane officer to prescribe the duties of the humane officer, which must include enforcement of the statutes concerning rabies control, dogs and crimes against animals.

Under this bill, a political subdivision may continue to appoint humane officers. The bill requires a person appointed as a humane officer to complete a course of

training approved by the department of agriculture, trade and consumer protection (DATCP) and to become certified by DATCP before appointment or no more than 12 months following appointment. The bill requires a political subdivision to terminate the appointment of a humane officer who fails to obtain certification within the required time. The bill authorizes DATCP to charge fees sufficient to cover the costs of providing training and certification.

The bill specifies the powers and duties of a humane officer. A humane officer is required to enforce the statutes concerning rabies control, dogs and crimes against animals, the laws concerning taking animals into custody and the disposition of animals taken into custody created in this bill and ordinances relating to animals. The bill requires a humane officer to investigate violations of statutes and ordinances relating to animals. The bill prohibits a humane officer who is not also a law enforcement officer from taking certain actions, including arresting persons and removing an animal from the custody of another person by force.

Under this bill, a humane officer or law enforcement officer who has reasonable grounds to believe that a violation of a statute or ordinance is occurring to the injury of an animal may issue an abatement order. The order must prohibit further violations and describe the measures necessary to correct the alleged violation. If a person violates one of 13 specified statutes concerning animals within 3 years after receiving an abatement order prohibiting the violation of that statute, the person is subject to a Class A forfeiture (a forfeiture not to exceed \$10,000) rather than a Class C forfeiture (a forfeiture not to exceed \$500).

Current law authorizes a county to provide a pound for stray or unwanted dogs. The county may designate a humane society or other organization to provide the pound.

This bill authorizes a political subdivision to provide for the care, treatment or disposal of animals taken into custody by a humane officer or law enforcement officer. A political subdivision may provide these services directly or by contracting with any other person.

Current law requires law enforcement officers, humane officers and certain others to attempt to take custody of any dog that is untagged or is running at large. Current law authorizes a humane officer or law enforcement officer to take into custody, shelter and care for any animal found to be treated in a cruel manner.

This bill authorizes a humane officer or law enforcement officer, on behalf of a political subdivision, to take custody of an animal if the humane officer or law enforcement officer has reasonable grounds to believe that the animal is one of the following:

1. An abandoned or stray animal.
2. An unwanted animal.
3. An untagged dog.
4. An animal not licensed as required by ordinance.
5. An animal not confined as required by a quarantine order relating to animal disease.
6. An animal that has caused damage to persons or property.
7. A participant in an animal fight.

8. An animal mistreated in violation of law.

9. An animal that was not picked up from a veterinarian after the veterinarian provided notice to the owner that the animal was ready to be picked up.

A humane officer or law enforcement officer must attempt to notify the owner of an animal taken into custody of the procedure by which the owner can recover the animal and the procedure to be followed if the animal is not returned to the owner.

Under current law, a dog that is impounded may be released to its owner only if the owner gives his or her name and address, presents evidence that the dog is licensed and provides for rabies vaccination and pays boarding fees. If the dog is not released to its owner within 7 days after impoundment, the dog may be released to a person other than the dog's owner if the person gives his or her name and address, agrees to have the dog licensed and vaccinated against rabies and pays any required boarding fee. If the dog is not released to a person other than its owner, the dog may be authorized or released to the University of Wisconsin or the Medical College of Wisconsin for scientific or educational purposes.

Under this bill, generally, an animal taken into custody must be returned to its owner if the owner provides reasonable evidence of ownership, provides for any required licensure and vaccination of the animal and pays the costs of custody, care and treatment of the animal. A political subdivision may withhold an animal from its owner if there are reasonable grounds to believe that the owner has mistreated the animal in violation of law; there are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare; the animal may be used in a pending prosecution; or a court has ordered the animal withheld for any reason.

If the owner of an abandoned or stray animal, untagged dog, unlicensed animal or animal that was not picked up from a veterinarian does not claim the animal within 7 days after custody is taken, the animal is considered unclaimed. A political subdivision, or person contracting with the political subdivision, may release an unclaimed or unwanted animal to a person other than the owner if the person provides for any required licensure and vaccination of the animal and pays any charges that the custodian imposes. The political subdivision or contractor may also dispose of an unclaimed or unwanted animal by selling it at public auction, euthanizing it, or, if the animal is a stray or abandoned dog, releasing it for scientific or educational purposes as under current law.

A political subdivision with custody of an animal that was not confined as required by a quarantine order must generally confine the animal for the duration of the quarantine order. The animal is released to the owner at the end of the quarantine if the owner pays the costs of its custody and care, except that the entity issuing the quarantine order may require the animal to be euthanized if it is diseased.

Under current law, if a humane officer or law enforcement officer determines that an animal taken into custody because it has been treated in a cruel manner is hopelessly injured or diseased so as to be beyond the probability of recovery, the officer may euthanize the animal.

Under this bill, a political subdivision, or a person contracting with a political subdivision to provide custody and care for animals, may euthanize any animal in custody if the animal is hopelessly injured beyond any reasonable chance of recovery, the animal poses an imminent threat to public health or safety or the animal poses an imminent threat to the health or safety of itself or its custodian.

This bill authorizes a political subdivision to petition the circuit court for an order requiring the owner of an animal in custody to pay for the custody, care or treatment of the animal; requiring the owner of an animal to post bond for the costs of custody, care or treatment of an animal pending the outcome of any other proceeding; or authorizing the sale, destruction or other disposal of the animal.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.115 (2) (j) of the statutes is amended to read:

2           20.115 (2) (j) *Dog licenses, rabies control and related services.* The amounts in  
3 the schedule to provide dog license tags and forms under s. 174.07 (2), to perform  
4 other program responsibilities under ch. 174, to administer the rabies control  
5 program under s. 95.21, to help administer the rabies control media campaign and  
6 to carry out the humane activities under s. 93.07 (11) and ch. 173. All moneys  
7 received by the state treasurer under s. ss. 173.27 and 174.09 (1) shall be credited  
8 to this appropriation.

9           **SECTION 2.** 58.07 of the statutes is repealed.

10          **SECTION 3.** 60.24 (3) (xm) of the statutes is amended to read:

11          60.24 (3) (xm) Perform the town chairperson's duties related to animals that  
12 have caused damage in the town under ch. ~~173~~ 172.

13          **SECTION 4.** 93.07 (11) of the statutes is amended to read:

14          93.07 (11) **HUMANE ACTIVITIES.** To cooperate with humane societies and assist  
15 duly appointed humane officers in the enforcement of the laws relating to humane

1 education and the prevention of cruelty to animals and for this purpose the  
2 department and its authorized agents when engaged in this work shall have the  
3 powers of police officers and constables.

4 **SECTION 5.** 95.21 (1) (a) of the statutes is created to read:

5 95.21 (1) (a) "Humane officer" means an officer appointed under s. 173.03.

6 **SECTION 6.** 170.065 of the statutes is created to read:

7 **170.065 Exemption.** Sections 170.01 to 170.06 do not apply to a humane  
8 officer appointed under ch. 173 or a law enforcement officer who takes custody of an  
9 animal under ch. 173 or other applicable law.

10 **SECTION 7.** Chapter 172 (title) of the statutes is amended to read:

11 **CHAPTER 172**

12 **ANIMALS DISTRAINED**

13 **OR DOING DAMAGE**

14 **SECTION 8.** Subchapter I (title) of chapter 172 [precedes 172.01] of the statutes  
15 is created to read:

16 **CHAPTER 172**

17 **SUBCHAPTER I**

18 **ANIMALS DISTRAINED**

19 **SECTION 9.** 172.012 of the statutes is created to read:

20 **172.012 Exemption.** This chapter does not apply to a humane officer  
21 appointed under ch. 173 or a law enforcement officer who takes custody of an animal  
22 under ch. 173 or other applicable law.

23 **SECTION 10.** Subchapter II (title) of chapter 172 [precedes 172.51] of the  
24 statutes is created to read:

25 **CHAPTER 172**

1 SUBCHAPTER II

2 ANIMALS DOING DAMAGE

3 SECTION 11. Chapter 173 (title) of the statutes is repealed and recreated to  
4 read:

5 CHAPTER 173

6 ANIMALS; HUMANE OFFICERS

7 SECTION 12. 173.01, 173.02, 173.03, 173.04, 173.05, 173.06 and 173.07 of the  
8 statutes are renumbered 172.51, 172.52, 172.53, 172.54, 172.55, 172.56 and 172.57.

9 SECTION 13. Chapter 173 of the statutes is created to read:

10 173.01 Definitions. In this chapter:

11 (1) "Department" means the department of agriculture, trade and consumer  
12 protection.

13 (2) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

14 (3) "Political subdivision" means a city, village, town or county.

15 173.03 Appointment of humane officer. (1) APPOINTMENT. The governing  
16 body of any political subdivision may appoint one or more humane officers. The  
17 governing body of a political subdivision shall report all appointments and  
18 terminations of appointments of humane officers to the department.

19 (2) ORDINANCE. Before, or at the time of, appointing a humane officer under sub.  
20 (1), the governing body making the appointment shall enact an ordinance that  
21 designates one or more officials of the political subdivision who may modify or  
22 withdraw abatement orders issued under s. 173.11 by humane officers appointed by  
23 the political subdivision.

24 (3) JURISDICTION. A humane officer appointed by a city, village or town shall  
25 carry out his or her duties within the boundaries of the city, village or town. A

1 humane officer appointed by a county shall carry out his or her duties throughout the  
2 county, other than within the boundaries of a city or village whose governing body  
3 adopts a resolution withdrawing from county enforcement of humane laws and  
4 transmits a copy of the resolution to the county.

5 **173.05 Certification required. (1)** Any person appointed as a humane  
6 officer under s. 173.03 on or after the first day of the 13th month beginning after the  
7 effective date of this subsection .... [revisor inserts date], shall, before appointment  
8 or no more than 12 months following appointment, complete a course of training  
9 approved by the department and receive certification under s. 173.27 (3).

10 **(2)** (a) A person appointed as a humane officer before the first day of the 13th  
11 month beginning after the effective date of this paragraph .... [revisor inserts date],  
12 shall complete a course of training approved by the department, except as provided  
13 in par. (b), and shall receive certification under s. 173.27 (3) no more than 12 months  
14 after the first day of the 13th month beginning after the effective date of this  
15 paragraph .... [revisor inserts date], or no more than 12 months following  
16 appointment, whichever is later.

17 (b) A person to whom par. (a) applies is not required to complete a course of  
18 training approved by the department if he or she takes an examination given by the  
19 department and passes the examination on the first attempt.

20 **(3)** The governing body of a political subdivision that appoints a humane officer  
21 who fails to obtain certification within the required time shall terminate the  
22 appointment.

23 **173.07 Powers and duties of humane officers. (1)** ENFORCEMENT. A  
24 humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances

1 relating to animals enacted by political subdivisions in which the humane officer has  
2 jurisdiction under s. 173.03 (3).

3 **(2) INVESTIGATION.** A humane officer shall investigate alleged violations of  
4 statutes and ordinances relating to animals and, in the course of the investigations,  
5 may execute inspection warrants under s. 66.123.

6 **(3) SEEK SUBPOENAS.** A humane officer may request the district attorney for the  
7 county to obtain subpoenas to compel testimony and obtain documents in aid of  
8 investigations.

9 **(4) ISSUE CITATIONS.** If authorized by the appointing political subdivision, a  
10 humane officer shall issue citations under s. 66.119 for violations of ordinances  
11 relating to animals.

12 **(4m) REQUEST PROSECUTIONS.** A humane officer may request law enforcement  
13 officers and district attorneys to enforce and prosecute violations of state law and  
14 may cooperate in those prosecutions.

15 **(5) PROHIBITED ACTIONS.** Unless also a law enforcement officer, a humane officer  
16 may not in the course of his or her duties do any of the following:

17 (a) Execute a search warrant.

18 (b) Carry firearms.

19 (c) Stop or arrest persons.

20 (d) Stop, search or detain vehicles, except under an inspection warrant under  
21 s. 66.123.

22 (e) Enter any place or vehicle by force or without the consent of the owner,  
23 except in an emergency occasioned by fire or other circumstance in which that entry  
24 is reasonable and is necessary to save an animal from imminent death or a person  
25 from imminent death or injury.

1 (f) Remove any animal from the custody of another person by force.

2 **(6) CONFLICT OF INTEREST PROHIBITED.** No humane officer may take into custody,  
3 sell or dispose of any animal that came into the humane officer's custody in the course  
4 of his or her duties in order to obtain a private benefit for the humane officer, a  
5 member of the humane officer's family or an organization with which the humane  
6 officer is affiliated.

7 **173.09 Investigations.** In the course of investigation of suspected violations  
8 of statutes or ordinances, a humane officer may enter any building, vehicle or place  
9 where animals may be present for the purpose of inspection, examination of animals  
10 or the gathering of evidence. If the building, vehicle or place to be entered is not  
11 public, and consent of the owner or person in charge is not obtained, entry shall be  
12 under authority of a special inspection warrant issued under s. 66.123 or a search  
13 warrant.

14 **173.11 Abatement of violations. (1) ISSUANCE OF ORDER.** If a humane officer  
15 or law enforcement officer after investigation has reasonable grounds to believe that  
16 a violation of a statute or ordinance is occurring to the detriment or injury of any  
17 animal, the humane officer or law enforcement officer may issue and serve an order  
18 of abatement directed to named persons. An official designated in an ordinance  
19 under s. 173.03 (2) may not participate in the decision to issue the order or in any  
20 activity leading to that decision.

21 **(1m) CONTENT OF ORDER.** An abatement order issued under sub. (1) shall  
22 contain all of the following:

23 (a) The name and address of the person to whom directed.

24 (b) The statute or ordinance alleged to be violated.

25 (c) A prohibition on further violations.

1 (d) A description of measures necessary to correct the alleged violation.

2 (e) A description of the hearing and appeal provisions under subs. (2) and (4).

3 **(2) HEARING.** Any person named in an abatement order issued under sub. (1)  
4 may, within the 10-day period following service of the order, request a hearing before  
5 an official designated in an ordinance under s. 173.03 (2). The hearing shall be held  
6 within 10 days after the request is made, unless the requester agrees to a later date.  
7 The hearing shall be informal in nature.

8 **(3) DECISION.** Within 10 days after a hearing under sub. (2), the official who  
9 conducts the hearing shall affirm the order, modify and affirm the order or withdraw  
10 the order.

11 **(4) APPEAL.** Any person adversely affected by a decision under sub. (3) may seek  
12 judicial review by commencing an action in circuit court within 30 days after the day  
13 that the decision is issued.

14 **173.13 Taking custody of animals. (1) INTAKE.** (a) A humane officer, on  
15 behalf of a political subdivision in which the humane officer has jurisdiction under  
16 s. 173.01 (3), or a law enforcement officer, on behalf of a political subdivision, may  
17 take custody of an animal if the humane officer or law enforcement officer has  
18 reasonable grounds to believe that the animal is one of the following:

19 1. An abandoned or stray animal.

20 2. An unwanted animal delivered to the humane officer or law enforcement  
21 officer.

22 3. A dog not tagged as required by ch. 174.

23 4. An animal not licensed in compliance with any ordinance.

24 5. An animal not confined as required by a quarantine order under any statute,  
25 rule or ordinance relating to the control of any animal disease.

1           6. An animal that has caused damage to persons or property.

2           7. A participant in an animal fight.

3           8. An animal mistreated in violation of ch. 951.

4           9. An animal delivered by a veterinarian under sub. (2).

5           (b) A humane officer shall accept into custody any animal delivered by a law  
6 enforcement officer or delivered under a court order.

7           (c) A person other than a humane officer or a law enforcement officer may not  
8 take an animal into custody on behalf of a political subdivision unless the animal is  
9 an abandoned or stray animal. If a person other than a humane officer or a law  
10 enforcement officer takes custody of an abandoned or stray animal on behalf of a  
11 political subdivision, he or she shall deliver the animal to a person contracting under  
12 s. 173.15 (1), a humane officer or law enforcement officer for disposition under s.  
13 173.23 or a pound.

14           **(2) DELIVERY OF ANIMAL BY VETERINARIAN.** A humane officer or law enforcement  
15 officer or a person contracting under s. 173.15 (1) may accept an animal delivered by  
16 a veterinarian, or his or her employe, if the animal has not been picked up by its  
17 owner and all of the following apply:

18           (a) The veterinarian notified the owner of the animal by certified mail, return  
19 receipt requested, that the animal was ready to be picked up and that the animal  
20 would be delivered to a humane officer if not picked up within 7 days.

21           (b) The veterinarian retained the animal for 7 days after the day on which the  
22 return receipt was signed or until the letter was returned to the veterinarian as  
23 undeliverable.

24           (c) The veterinarian certifies in writing to the humane officer or law  
25 enforcement officer that pars. (a) and (b) apply.

1           **(3) NOTIFICATION OF OWNER.** (a) If a humane officer or law enforcement officer  
2 takes custody of an animal with the knowledge of the owner, the humane officer or  
3 law enforcement officer shall explain the procedure by which the owner can recover  
4 the animal, including the procedure under s. 173.22, and the procedure to be followed  
5 if the animal is not returned to the owner.

6           (b) If a humane officer or law enforcement officer takes custody of an animal  
7 without the knowledge of the owner, the humane officer or law enforcement officer  
8 shall promptly notify the owner if he or she can be identified and located with  
9 reasonable effort. Upon contacting the owner, the humane officer or law enforcement  
10 officer shall explain the procedure by which the owner can recover the animal,  
11 including the procedure under s. 173.22, and the procedure to be followed if the  
12 animal is not returned to the owner.

13           (c) If the owner informs the humane officer or law enforcement officer in writing  
14 that he or she will not claim the animal, it may be treated as an unclaimed animal  
15 under s. 173.23 (1m).

16           **173.15 Provision of care, treatment or disposal services. (1) PROVIDING**  
17 **SERVICES.** A political subdivision may provide for the care, treatment or disposal of  
18 animals taken into custody by a humane officer or law enforcement officer. A political  
19 subdivision may provide these services directly or by contracting with any other  
20 person. A political subdivision may establish standard fees for the care, custody and  
21 treatment of animals in its custody. The political subdivision may establish different  
22 fees for animals released to their owners and animals released to persons other than  
23 their owners. If the political subdivision does not establish standard fees, it may  
24 charge no more than the actual costs of care, custody or treatment to any person  
25 required to pay for the care, custody or treatment of an animal.

1           **(2) CONTRACT FOR SERVICES.** Every person entering into a contract with a  
2 political subdivision under sub. (1) shall agree to do all of the following:

3           (a) Provide adequate care and treatment of all animals delivered under the  
4 contract.

5           (b) Maintain adequate records consistent with s. 173.17.

6           (c) Release or dispose of animals under s. 173.23 or as provided in a court order.

7           **173.17 Records.** A humane officer or law enforcement officer taking custody  
8 of an animal on behalf of a political subdivision shall maintain, or require any person  
9 to whom the animal is delivered under a contract under s. 173.15 (1) to maintain, as  
10 appropriate, records for each animal of the following information:

11           **(1)** A physical description of the animal.

12           **(2)** The date that custody was taken of the animal, the date that the animal was  
13 delivered into the possession of another person and the identity of the person to  
14 whom delivered.

15           **(3)** The reason for taking custody of the animal.

16           **(4)** The ultimate disposition of the animal, including the name and address of  
17 any person into whose custody the animal was ultimately released.

18           **173.19 Animals considered unclaimed.** A political subdivision or person  
19 contracting under s. 173.15 (1) may treat any animal taken into custody under s.  
20 173.13 (1) (a) 1., 3., 4. or 9. as an unclaimed animal subject to s. 173.23 (1m) if, within  
21 7 days after custody is taken of the animal, it is not claimed by and returned to its  
22 owner under s. 173.23 (1), except that an animal taken into custody under s. 173.13  
23 (1) (a) 3. or 4. may not be treated as unclaimed if its owner files a petition under s.  
24 173.22 (1) within 7 days after custody is taken.

1           **173.21 Holding animals for cause. (1) GROUND.** A political subdivision  
2 may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an  
3 animal in custody from an owner who makes an otherwise adequate claim for the  
4 animal under s. 173.23 (1) on any of the following grounds:

5           (a) There are reasonable grounds to believe that the owner has mistreated the  
6 animal in violation of ch. 951.

7           (b) There are reasonable grounds to believe that the animal poses a significant  
8 threat to public health, safety or welfare.

9           (c) The animal may be used as evidence in a pending prosecution.

10          (d) A court has ordered the animal withheld for any reason.

11          **(2) EXAMINATION PERMITTED.** If an animal is withheld under sub. (1), upon  
12 request by the owner, a veterinarian retained by the owner may examine the animal.

13          **(3) COSTS.** The owner of an animal withheld under sub. (1) is not liable for any  
14 costs of custody, care or treatment except as provided by court order.

15          **(4) RETURN.** A political subdivision or person contracting under s. 173.15 (1)  
16 having custody of an animal withheld under sub. (1) shall release the animal to the  
17 owner at the direction of the humane officer or law enforcement officer that took  
18 custody of the animal if the requirements of s. 173.23 (1) (a) to (c) are satisfied.

19          **173.22 Review of seizure or withholding. (1) PETITION.** A person claiming  
20 that an animal that he or she owns was improperly taken into custody under s.  
21 173.13 (1) (a) 3., 4., 5., 6. or 8. or is wrongfully withheld under s. 173.21 (1) may seek  
22 return of the animal by petitioning for an order from the circuit court for the county  
23 in which the animal was taken into custody or in which it is held.

24          **(2) NOTICE AND HEARING.** The court shall provide notice of a petition under sub.  
25 (1) to the humane officer or law enforcement officer who took the animal into custody

1 or to the political subdivision that withheld the animal and shall hold a hearing on  
2 the issue of whether the animal was improperly taken into custody or is wrongfully  
3 withheld.

4 **(3) ORDER.** (a) If the animal was taken into custody under s. 173.13 (1) (a) 8.  
5 or is withheld under s. 173.21 (1), the court shall order the animal returned to the  
6 owner unless it determines that one of the following conditions is satisfied:

7 1. There are reasonable grounds to believe that the owner has mistreated the  
8 animal in violation of ch. 951.

9 2. There are reasonable grounds to believe that the animal poses a significant  
10 threat to public health, safety or welfare.

11 3. The animal may be used as evidence in a pending prosecution.

12 4. A court has ordered the animal withheld for any reason.

13 (b) If the animal was taken into custody under s. 173.13 (1) (a) 3., the court shall  
14 order the animal returned to its owner if the court determines that the animal was  
15 tagged or was not required to be tagged under ch. 174.

16 (c) If the animal was taken into custody under s. 173.13 (1) (a) 4., the court shall  
17 order the animal returned to its owner if the court determines that the animal was  
18 licensed or was not required to be licensed.

19 (d) If the animal was taken into custody under s. 173.13 (1) (a) 5., the court shall  
20 order the animal returned to its owner if the court determines that the animal was  
21 not subject to a quarantine order or was confined as required by a quarantine order.

22 (e) If the animal was taken into custody under s. 173.13 (1) (a) 6., the court shall  
23 order the animal returned to its owner if the court determines that the animal did  
24 not cause damage to persons or property.

1           **173.23 Disposition of animals. (1) CLAIM AND RETURN.** Except as provided  
2 in sub. (4) or s. 173.21 (1), a political subdivision or person contracting under s.  
3 173.15 (1) shall return an animal described in s. 173.13 (1) (a) 1., 3., 4., 6., 8. or 9. to  
4 its owner upon the happening of all of the following:

5           (a) The owner claims the animal and provides reasonable evidence of  
6 ownership.

7           (b) If licensure is required by statute or ordinance, the animal is licensed or  
8 assurance of licensure by prepayment is given.

9           (c) If vaccination is required by statute or ordinance, the animal is vaccinated  
10 or assurance of vaccination by prepayment is given.

11           (d) All charges for custody, care, vaccination and treatment are paid.

12           **(1m) UNCLAIMED ANIMALS.** A political subdivision or a person contracting under  
13 s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (5) (c)  
14 or (6) or s. 173.13 (3) (c) or 173.19 or an unwanted animal may do any of the following:

15           (a) Release the animal to any person other than the owner if all of the following  
16 apply:

17           1. The person provides his or her name and address.

18           2. If licensure is required by statute or ordinance, the animal is licensed or  
19 assurance of licensure by prepayment is given.

20           3. If vaccination is required by statute or ordinance, the animal is vaccinated  
21 or assurance of vaccination by prepayment is given.

22           4. Any charges imposed by the political subdivision or person contracting under  
23 s. 173.15 (1) for custody, care, vaccination and treatment are paid.

24           (b) Sell the animal at public auction, including sale at a licensed livestock  
25 market.

1 (c) Euthanize the animal.

2 (d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

3 **(1s) PROCEEDS OF SALE.** If the owner of an animal sold under sub. (1m) (b) files  
4 a claim and provides proof of ownership within 30 days after the sale, the sale  
5 proceeds, less the cost of custody, care, treatment and sale, shall be returned to the  
6 owner.

7 **(2) ANIMALS NOT RETURNED TO OWNER.** If an animal in the custody of a political  
8 subdivision, other than an animal to which sub. (1m) applies, is not returned to the  
9 owner under sub. (1) or (5) (b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under  
10 sub. (4) or (5) (a) or s. 173.12 (3), it shall be disposed of under a court order under sub.  
11 (3) or s. 951.18 (4).

12 **(3) COURT ORDER.** (a) A political subdivision may petition the circuit court for  
13 an order doing any of the following with respect to an animal taken into custody by  
14 a law enforcement officer or a humane officer or withheld under s. 173.21 (1):

15 1. Requiring the owner of the animal to pay for the custody, care or treatment  
16 of the animal.

17 2. Requiring the owner of the animal to post bond for the costs of custody, care  
18 or treatment of the animal pending the outcome of any other proceeding.

19 3. Authorizing the sale, destruction or other disposal of the animal.

20 (b) The petition shall include the text of the proposed order and shall set forth  
21 the basis for the proposed order.

22 (c) The political subdivision shall serve a copy of the petition, in the manner  
23 provided in s. 801.11, upon the owner of the animal, if known.

24 (d) The court shall conduct a hearing on the petition. The petitioner and any  
25 person upon whom a copy of the petition was served may appear as a party.

1 (e) The court shall issue its order after hearing and may grant, modify and  
2 grant or deny the petitioned for relief, after considering the interests of the animal,  
3 the owner of the animal, the political subdivision and the public.

4 **(4) INJURED OR DANGEROUS ANIMALS.** A political subdivision or person  
5 contracting under s. 173.15 (1) who has custody of an animal may have the animal  
6 euthanized if there are reasonable grounds to believe that any of the following apply:

7 (a) The animal is hopelessly injured beyond any reasonable chance of recovery.

8 (b) The animal poses an imminent threat to public health or safety.

9 (c) The animal poses an imminent threat to the health or safety of itself or its  
10 custodian.

11 **(5) ANIMAL NOT CONFINED AS REQUIRED BY QUARANTINE ORDER.** (a) A political  
12 subdivision or person contracting under s. 173.15 (1) that has custody of an animal  
13 that was not confined as required by a quarantine order issued under any statute,  
14 rule or ordinance relating to the control of any animal disease shall confine the  
15 animal for the duration of the quarantine or shall euthanize the animal with the  
16 written permission of the owner or, if the animal is determined to be diseased, at the  
17 direction of the entity issuing the quarantine order.

18 (b) Unless the person issuing the quarantine order directs that the animal be  
19 euthanized because it is diseased, at the end of the quarantine period the political  
20 subdivision or person contracting under s. 173.15 (1) shall return the animal to its  
21 owner if the owner complies with sub. (1) (a) to (d) no later than the 7th day after the  
22 day on which the political subdivision or person contracting under s. 173.15 (1)  
23 demands that the owner claim the animal and pay for its custody, care and  
24 treatment.

1 (c) If an owner does not comply with sub. (1) (a) to (d) within the time provided  
2 in par. (b), the animal is considered an unclaimed animal under sub. (1m).

3 (d) Before euthanizing an animal that is in custody because it was not confined  
4 as required by a quarantine order, the person with custody of the animal shall notify  
5 the entity that issued the quarantine order. If the entity determines that testing of  
6 specimens is necessary to determine the disease status of the animal, the person with  
7 custody shall collect the specimens.

8 **(6) NONCOMPLIANCE BY OWNER.** If an owner is ordered under sub. (3) to pay, or  
9 post bond for the payment of, costs of custody, care or treatment of an animal, and  
10 refuses to do so upon demand, the animal shall be treated as an unclaimed animal  
11 subject to sub. (1m).

12 **173.25 Immunity for euthanizing animals.** A political subdivision, a  
13 person contracting under s. 173.15 (1), a humane officer or a law enforcement officer  
14 is not liable for damages for the loss of an animal resulting from euthanizing the  
15 animal in good faith under s. 173.23 (1m) (c), (4) or (5) or under a court order issued  
16 under s. 173.23 (3).

17 **173.27 Duties of the department.** The department shall do all of the  
18 following:

19 **(1) RULES.** Adopt, by rule, standards for the training and certification of  
20 humane officers to ensure that humane officers are at least minimally qualified to  
21 perform the duties of a humane officer. The standards shall provide for training  
22 offered by the department or by others.

23 **(2) TRAINING.** Offer training courses for humane officers or approve training  
24 courses offered by others, or both. The department may charge a fee sufficient to  
25 recover the costs of training courses that it provides.

1           **(3) CERTIFICATION.** Examine, as necessary, and certify humane officers as  
2 qualified. The department may charge a fee, established by rule, sufficient to recover  
3 the costs of certification.

4           **(4) REGISTRY OF HUMANE OFFICERS.** Maintain and keep current a registry of all  
5 persons serving as humane officers for political subdivisions.

6           **SECTION 14.** 174.01 (2) of the statutes is amended to read:

7           174.01 **(2)** INAPPLICABLE TO OFFICERS, VETERINARIANS AND PERSONS KILLING THEIR  
8 OWN DOG. This section does not apply to an officer acting in the lawful performance  
9 of his or her duties under s. 29.05 (8) (b), 95.21, 173.23 (1m) (c), (3) or (4) or 174.02  
10 (3) or 174.046 (9), or to a veterinarian killing a dog in a proper and humane manner  
11 or to a person killing his or her own dog in a proper and humane manner.

12           **SECTION 15.** 174.046 of the statutes is repealed.

13           **SECTION 16.** 174.13 (3) of the statutes is amended to read:

14           174.13 **(3)** An officer or pound which has custody of unclaimed dogs shall  
15 maintain records as provided under s. ~~174.046~~ 173.17.

16           **SECTION 17.** 757.69 (1) (n) of the statutes is created to read:

17           757.69 **(1)** (n) Hold hearings and issue orders on petitions under s. 173.23 (3).

18           **SECTION 18.** 895.57 (1) (a) of the statutes is amended to read:

19           895.57 **(1)** (a) "Humane officer" means an officer appointed under s. ~~58-07~~  
20 173.03.

21           **SECTION 19.** 943.75 (1) (a) of the statutes is amended to read:

22           943.75 **(1)** (a) "Humane officer" means an officer appointed under s. ~~58-07~~  
23 173.03.

24           **SECTION 20.** 951.01 (3e) of the statutes is created to read:

25           951.01 **(3e)** "Humane officer" means an officer appointed under s. 173.03.

1           **SECTION 21.** 951.01 (4) of the statutes is amended to read:

2           951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02  
3           (5) ~~and includes a humane officer under s. 58.07~~ but does not include a conservation  
4           warden appointed under s. 23.10.

5           **SECTION 22.** 951.03 of the statutes is amended to read:

6           **951.03 Dognapping and catnapping.** No person may take the dog or cat of  
7           another from one place to another without the owner's consent or cause such a dog  
8           or cat to be confined or carried out of this state or held for any purpose without the  
9           owner's consent. This section does not apply to law enforcement officers or humane  
10          ~~society agents~~ officers engaged in the exercise of their official duties.

11          **SECTION 23.** 951.15 (title) of the statutes is repealed and recreated to read:

12          **951.15 Abandoning animals.**

13          **SECTION 24.** 951.15 (1) of the statutes is renumbered 951.15.

14          **SECTION 25.** 951.15 (2) to (4) of the statutes are repealed.

15          **SECTION 26.** 951.16 of the statutes, as affected by 1995 Wisconsin Act 90, is  
16          renumbered 173.10 and amended to read:

17          **173.10 Investigation of cruelty complaints.** A person may apply for a  
18          search warrant under s. 968.12 if there is reason to believe that a violation of this  
19          ~~chapter~~ ch. 951 has taken place or is taking place. If the court is satisfied that  
20          probable cause exists, it shall issue a search warrant directing a law enforcement  
21          officer in the county to proceed immediately to the location of the alleged violation  
22          with a doctor of veterinary medicine, if the court determines that a veterinarian is  
23          necessary for purposes of the search, and directing the law enforcement officer to  
24          search the place designated in the warrant, retaining in his or her custody subject  
25          to the order of the court such property or things as are specified in the warrant,

1 including any animal. If the person applying for the search warrant is a humane  
2 officer, the warrant shall direct that the humane officer accompany the law  
3 enforcement officer who is directed to perform the search. The warrant shall be  
4 executed and returned to the court which issued the warrant in accordance with ss.  
5 968.15 and 968.17. This section shall not affect other powers and duties of law  
6 enforcement officers.

7 **SECTION 27.** 951.162 (title) of the statutes is repealed.

8 **SECTION 28.** 951.162 of the statutes is renumbered 173.12 (1) and amended to  
9 read:

10 173.12 (1) Any veterinarian who has reason to believe that an animal has been  
11 in a fight in violation of s. 951.08 shall report the matter to the local humane officer  
12 ~~or society or county or municipal pound~~ or to a local law enforcement agency. The  
13 report shall be in writing and shall include a description and the location of the  
14 animal, any injuries suffered by the animal and the name and address of the owner  
15 or person in charge of the animal, if known. ~~The general penalty provisions under~~  
16 ~~s. 939.61 do not apply to this section.~~

17 **SECTION 29.** 951.165 (title), (1), (2) and (3) of the statutes are renumbered  
18 173.12 (title), (1m), (2) and (3), and 173.12 (1m) and (3), as renumbered, are amended  
19 to read:

20 173.12 (1m) If an animal has been seized because it is alleged that the animal  
21 has been used in or constitutes evidence of any crime specified in s. 951.08, the  
22 animal shall not be returned to the owner by an officer under s. 968.20 (2). In any  
23 hearing under s. 968.20 (1), the court shall determine if the animal is needed as  
24 evidence or there is reason to believe that the animal has participated or been trained

1 for fighting. If the court makes such a finding, the animal shall be retained in custody  
2 under s. 951.16.

3 (3) (a) If the owner is convicted under s. 951.08 or is subject to the restrictions  
4 under s. 951.08 (2m), the animal shall be delivered to the local humane society officer  
5 or county or municipal pound. If there is no local humane officer or pound, the animal  
6 may be delivered to a local humane society or to another person designated by the  
7 court. If the animal is one year old or older or shows indication of having participated  
8 in fighting, the animal shall be disposed of in a proper and humane manner.

9 (b) If the animal is less than one year old and shows no indication of having  
10 participated in fighting, the animal shall be released to a person other than the  
11 owner or disposed of in a proper and humane manner. If the animal is a dog, the  
12 release or disposal shall be in accordance with s. ~~174.046 (8) or (9)~~, ~~except s. 174.046~~  
13 ~~(8) (a) does not apply and~~ 173.23 (1m), ~~except that the fees under s. 174.046 (8) (d)~~  
14 173.23 (1m) (a) 4. are covered under s. ~~951.17~~ 173.24.

15 **SECTION 30.** 951.17 of the statutes is renumbered 173.24, and 173.24 (1), (2)  
16 (a) and (3), as renumbered, are amended to read:

17 173.24 (1) A court shall assess the expenses under this section in any case in  
18 which there has been a search authorized under s. ~~951.16~~ 173.10 or in which an  
19 animal has been seized because it is alleged that the animal has been used in or  
20 constitutes evidence of any crime under ~~this chapter~~ ch. 951.

21 (2) (a) Investigative expenses of any search under s. ~~951.16~~ 173.10 or any  
22 seizure under this chapter.

23 (3) If the person alleged to have violated ~~this chapter~~ ch. 951 is found guilty  
24 of the violation, the person shall be assessed the expenses under subs. (1) and (2).

1 If the person is not found guilty, the county treasurer shall pay the expenses from the  
2 general fund of the county.

3 **SECTION 31.** 951.18 (1) and (4) (a) 2. and (b) of the statutes are amended to read:

4 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,  
5 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 (~~1~~) is subject to a  
6 Class C forfeiture. Any person who violates any of these provisions within 3 years  
7 after a humane officer issues an abatement order under s. 173.11 prohibiting the  
8 violation of that provision is subject to a Class A forfeiture. Any person who  
9 intentionally or negligently violates any of those sections is guilty of a Class A  
10 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the  
11 mutilation, disfigurement or death of an animal, is guilty of a Class E felony. Any  
12 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that  
13 is the victim is used by a law enforcement agency to perform agency functions or  
14 duties and causing injury to the animal, is guilty of a Class E felony.

15 (4) (a) 2. A sentencing court shall require a criminal violator to pay restitution  
16 to a person, including any local humane officer or society or county or municipal  
17 pound or a law enforcement officer, for any pecuniary loss suffered by the person as  
18 a result of the crime, including expenses in keeping any animal that is involved in  
19 the crime. This requirement applies regardless of whether the criminal violator is  
20 placed on probation under s. 973.09. If restitution is ordered, the court shall consider  
21 the financial resources and future ability of the criminal violator to pay and shall  
22 determine the method of payment. Upon the application of any interested party, the  
23 court shall schedule and hold an evidentiary hearing to determine the value of any  
24 pecuniary loss under this paragraph.

1 (b) 1. A sentencing court may order that an animal be delivered to the local  
2 humane officer or society or the county or municipal pound or to a law enforcement  
3 officer if a person commits a crime under this chapter, the person is the owner of the  
4 animal that is involved in the crime and the court considers the order to be  
5 reasonable and appropriate. The society, pound or officer shall release the animal  
6 to a person other than the owner or dispose of the animal in a proper and humane  
7 manner. If the animal is a dog, the release or disposal shall be in accordance with  
8 s. ~~174.046 (8) or (9)~~, ~~except s. 174.046 (8) (a) does not apply and~~ 173.23 (1m), ~~except~~  
9 that the fees under s. 174.046 (8) (d) 173.23 (1m) (a) 4. do not apply if the expenses  
10 are covered under s. ~~951.17~~ 173.24. If the animal is not a dog, the society, pound or  
11 officer may charge a fee for the release of the animal.

12 2. If the court is sentencing a person covered under s. ~~951.165~~ 173.12 (3) (a) and  
13 an animal has been seized under s. ~~951.165~~ 173.12, the court shall act in accordance  
14 with s. ~~951.165~~ 173.12 (3).

15 **SECTION 32.** 968.20 (1) (intro.) and (2) of the statutes are amended to read:

16 968.20 (1) (intro.) Any person claiming the right to possession of property  
17 seized pursuant to a search warrant or seized without a search warrant may apply  
18 for its return to the circuit court for the county in which the property was seized or  
19 where the search warrant was returned. The court shall order such notice as it  
20 deems adequate to be given the district attorney and all persons who have or may  
21 have an interest in the property and shall hold a hearing to hear all claims to its true  
22 ownership. If the right to possession is proved to the court's satisfaction, it shall  
23 order the property, other than contraband or property covered under sub. (1m) or (1r)  
24 or s. ~~951.165~~ 173.12 or 173.21 (4) (b), returned if:

